

July 2, 2003 BZA



REQUEST ANALYSIS  
AND  
RECOMMENDATION

03AN0302

Frank V. and Erin P. LaRose

Matoaca Magisterial District  
5514 Windy Ridge Terrace

**REQUEST:** A four (4) foot Variance to the six (6) foot rear yard setback requirement for a proposed swimming pool and adjoining deck.

**RECOMMENDATION**

Recommend denial of this Variance for the following reasons:

- A. As required by the Zoning Ordinance, there are no conditions upon which the request is based that are unique to the property and are not generally applicable to other properties in the area.
- B. Variance is not in accord with the Zoning Ordinance.

**GENERAL INFORMATION**

**Location:**

Property is known as 5514 Windy Ridge Terrace. Tax ID 717-679-3100 (Sheet 15).

**Existing Zoning:**

R-9

**Size:**

.161 acre

Existing Land Use:

Residential

Adjacent Zoning and Land Use:

North - R-9; Open space and residential  
South - R-9; Residential  
East - R-9; Residential  
West - R-9; Residential

Utilities:

Public water and sewer

General Plan:

(Upper Swift Creek Plan)

Residential  
(2.0 units per acre or less)

DISCUSSION

The applicants are proposing to install a swimming pool and construct an adjoining deck open on three (3) sides, two (2) feet from the rear property line (see attached site plan). The Zoning Ordinance requires a six (6) foot rear yard setback. Therefore, the applicants request a four (4) foot Variance.

The applicants provide the following justification in support of this request:

We would like to put in an above ground swimming pool in our backyard. Because of the way the house is set on the property, we only have 18.44 feet of space to our property line. We must have a Variance of four (4) feet in order to put a pool in.

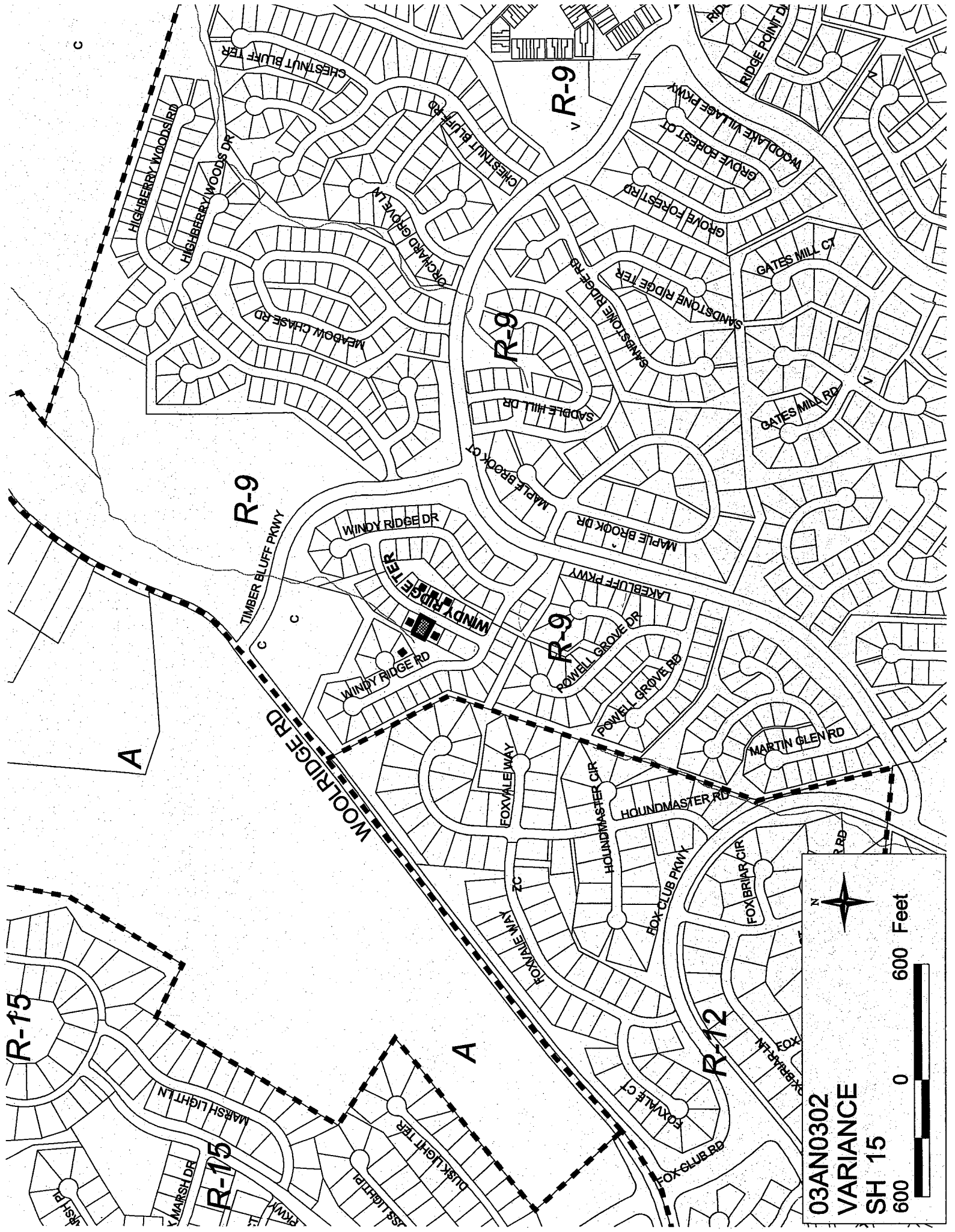
The applicants have failed to provide any information, as required by the Zoning Ordinance, which would serve as a basis for the granting of this Variance. Staff believes that this request does not meet the test for Variances as specified in Section 19-21 of the Chesterfield County Zoning Ordinance.

Staff finds no conditions upon which this request is based which are unique to the subject property and do not apply generally to other properties in the immediate area. Therefore, staff cannot support this Variance request.


However, if the Board feels that this request has merit, staff recommends that it be subject to the following condition:

### **CONDITION**

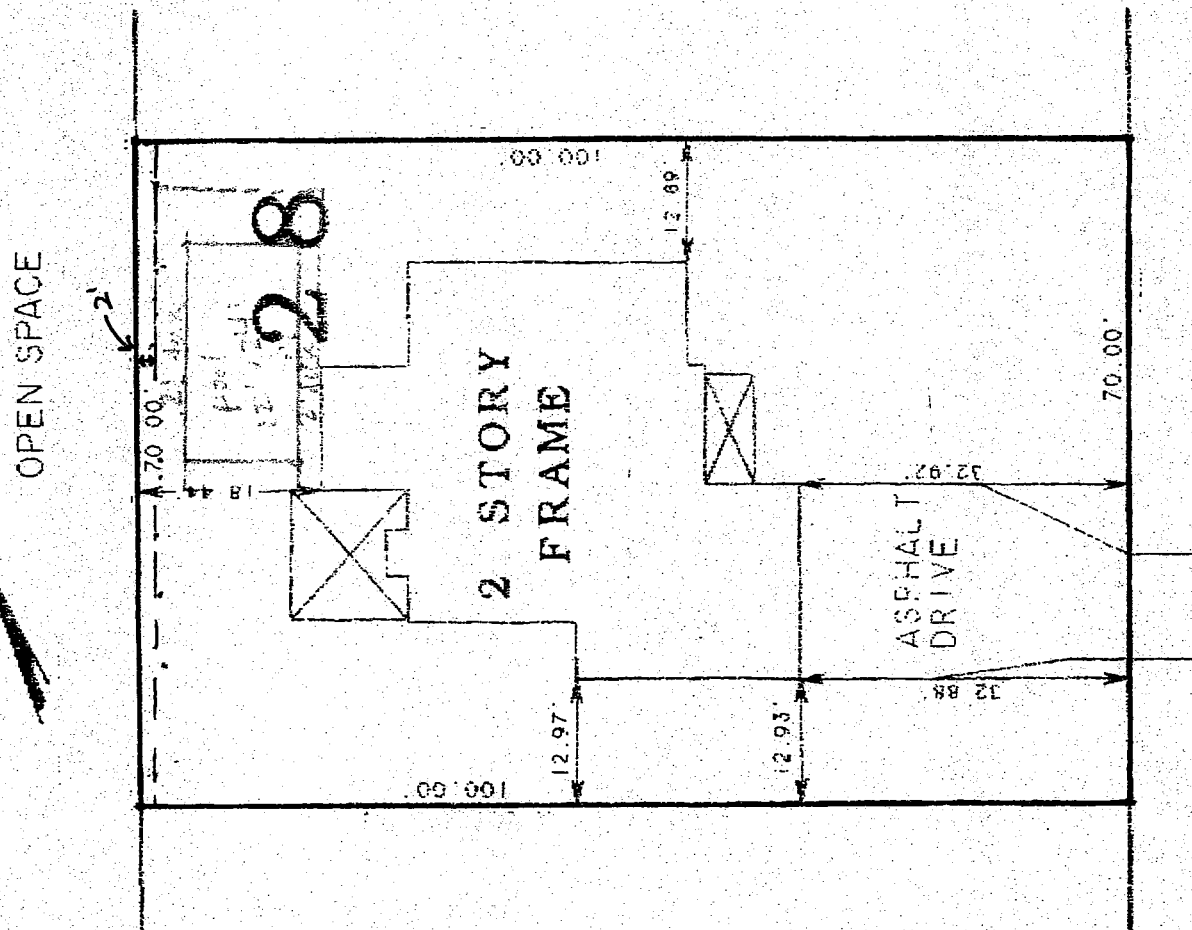
**This Variance shall be for the proposed swimming pool and adjoining deck as depicted on the plat attached to staff's report.**



03AN0302  
VARIANCE  
SH 15  
600 0 600 Feet



A north arrow pointing upwards and a scale bar with markings for 0 and 600 feet.



# WINDY RIDGE TERRACE

July 2, 2003 BZA



REQUEST ANALYSIS  
AND  
RECOMMENDATION

03AN0292

Philip Hooper

Dale Magisterial District  
10000 Newbys Bridge Road

REQUEST: A Special Exception to operate an automobile repair shop from the home.

RECOMMENDATION

Recommend denial of this Special Exception for the following reasons:

- A. Special Exception may adversely affect the health, safety or welfare of persons residing on the premises or in the neighborhood.
- B. Special Exception may impair the character of the district.
- C. Use may reduce or impair the value of buildings or property in surrounding areas.

GENERAL INFORMATION

Location:

Property is known as 10000 Newbys Bridge Road. Tax ID 752-673-Part of 3027 (Sheet 16).

Existing Zoning:

A

Size:

2 acres

Existing Land Use:

Residential

Adjacent Zoning and Land Use:

North - Route 288  
South - A; Residential  
East - A; Residential and vacant  
West - A; Residential

Utilities:

Private well and septic system

Transportation:

The Virginia Department of Transportation (VDOT) may require a commercial entrance to be constructed on Newbys Bridge Road to serve this use.

General Plan:

(Central Area Land Use and Transportation Plan) Residential  
(1 to 2.5 units per acre)

DISCUSSION

The applicant requests a Special Exception to operate an automobile repair shop from the home located in an Agricultural (A) District (see attached site plan).

The applicant provides the following information in support of this request:

I would like to operate an auto repair shop for mechanical repair from 8 A.M. to 5 P.M., Monday through Friday. I would like to have one (1) employee.

On April 28, 2003, Planning Department staff visited the site in response to a complaint. At that time, it was determined that an automobile repair shop was being operated from the home without a Special Exception. After being cited for a zoning violation, Philip L. Hooper, applied for a Special Exception.

Staff notes on October 6, 1999, the Board of Zoning Appeals denied a request from Mr. Hooper for a Special Exception for an automobile repair shop from the home (see attached minutes).

Staff visited the property and observed the applicant had miscellaneous debris (motor parts, etc.) associated with this operation stored on the property. Staff also observed several commercial trucks

and trailers parked on the property. The following conditions restrict storage of debris and the property being used as a contractor's storage yard.

Staff believes that the proposed use, because of noise, traffic and associated activity, will have an adverse effect on adjacent properties and the area in general. Staff also believes that this request may change the character of the existing neighborhood and will encourage increased traffic on Newbys Bridge Road.

The Central Area Land Use and Transportation Plan suggests the property is appropriate for residential use. Staff believes that this type of use is too intense to be compatible with the residential character of the adjacent properties and it is incompatible with the existing land use Plan. A use of this commercial intensity should be located in a commercial district designed to accommodate it. Staff does not feel that the imposition of development conditions will mitigate the negative impacts this use will have on the area. Therefore, staff cannot support this request.

However, if the Board feels this request has merit, staff recommends that it be subject to the following conditions:

#### CONDITIONS

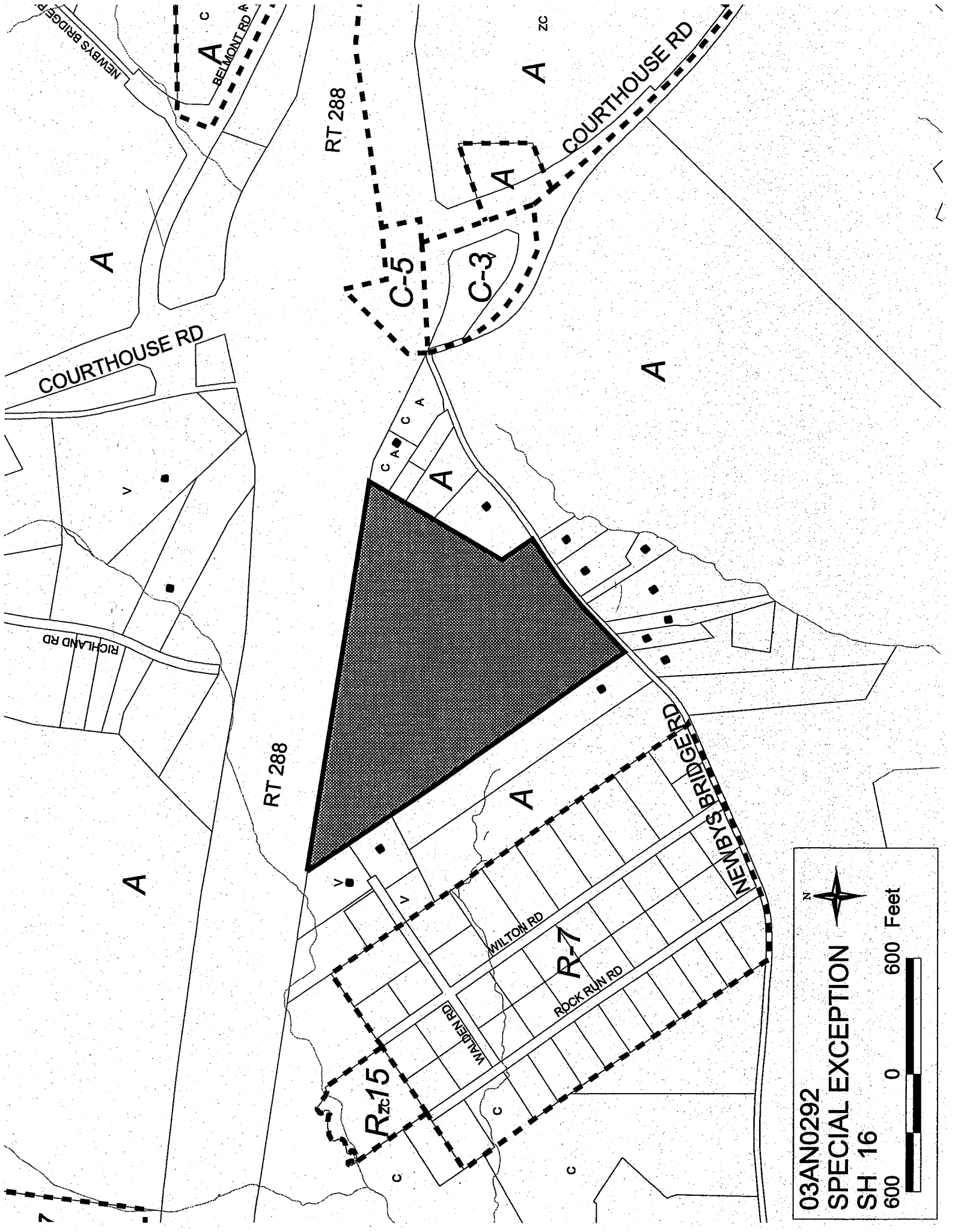
1. Special Exception shall be granted to and for Philip Hooper, exclusively. Upon transfer of the land, this Special Exception shall expire.
2. Special Exception shall be granted for a period not to exceed three (3) years from date of approval.
3. Special Exception shall be limited to the automobile repair shop, exclusively, and one (1) employee, other than the applicant, shall be engaged in this operation. No equipment storage (trucks and trailers) shall be allowed.
4. No junk automobiles, automobile parts or other miscellaneous debris associated with this operation shall be stored on this property.
5. No sign shall be permitted for this use.
6. No vehicles shall remain on the property for more than sixty (60) days.
7. The parking areas for vehicles shall be at least graveled.

(NOTE: The Zoning Ordinance requires parking areas for more than four (4) vehicles to be paved.)

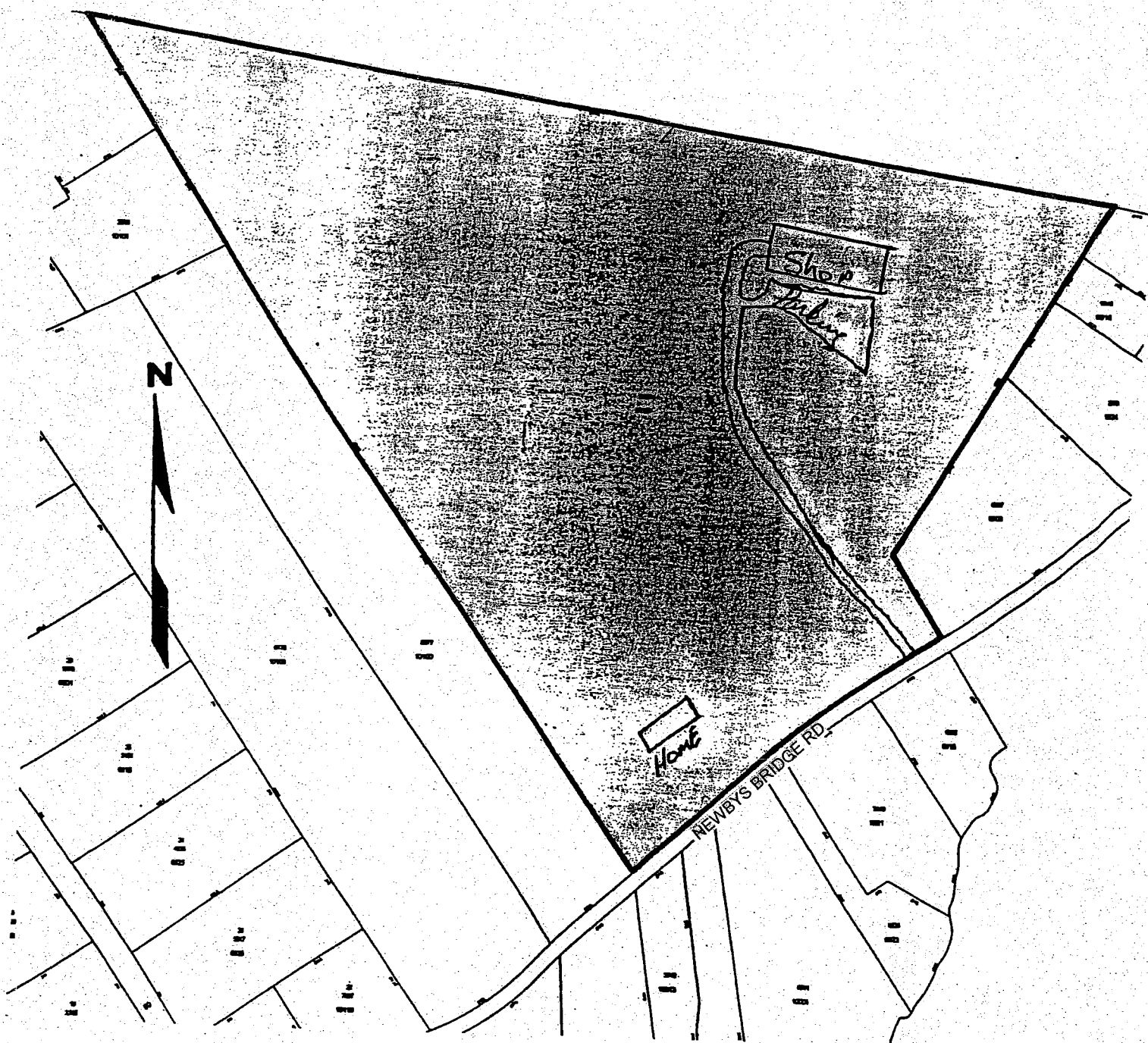
8. Hours of operation shall be restricted to between 8 A.M. and 6 P.M., Monday through Saturday. No after hours or Sunday operation shall be permitted.



9. No deliveries shall be permitted before 8 A.M. and after 6 P.M.
10. No new buildings shall be constructed related to this business. No additions or alterations related to this operation shall be permitted to the existing garage. This does not preclude any routine maintenance or cosmetic alteration.
11. No more than ten (10) customers' vehicles shall be permitted on the property at any one time.
12. All work and operations associated with this business, excepting parking, shall be accomplished on the inside of the existing building.
13. The existing mature vegetation within 200 feet of the garage shall be preserved and maintained, unless removal is approved by the Planning Department. This condition shall not be applicable to the removal of dead or diseased trees.



03AN0292  
SPECIAL EXCEPTION  
SH 16  
600 0 600 Feet



03AN0292-1

**PRESENT**

Mr. Joseph L. Biggs, Chairman  
Mr. W. Baxter Perkinson, Sr., Vice-Chairman  
Mr. John E. Caperton  
Mr. Graham C. Daniels  
Mr. H. Stephen Moore, Jr.

**ALSO PRESENT:**

Mr. J. Michael Janosik, Secretary to the  
Board of Zoning Appeals, Zoning Administrator,  
Planning Department  
Ms. Donna McClurg, Planner,  
Planning Department  
Ms. Linda Lewis, Administrative Secretary,  
Planning Department  
Mr. David Robinson, Assistant County Attorney,  
County Attorney's Office

***Providing a FIRST CHOICE Community Through Excellence in Public Service.***

**00AN0118:** In Matoaca Magisterial District, **PHILIP L. HOOPER** requested a Special Exception to operate an automotive repair shop from the home and amendment of zoning district map. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for residential use of 1.00 to 2.5 units per acre. This property fronts the north line of Newbys Bridge Road approximately 900 feet northeast of Wilton Road and is better known as 10000 Newbys Bridge Road. Tax ID 752-673-Part of 3027 (Sheet 16).

Ms. Donna McClurg presented the background information and staff's recommendation for denial. She noted staff had received one (1) complaint relative to the operation of a business from the home on this property.

Mr. Philip Hooper, the applicant, came forward to represent this request. He stated he was requesting a Special Exception to operate an auto/mechanical repair shop from 8 A.M. to 5 P.M., Monday through Friday, noting he would have one (1) employee. He stated he did not intend to expand the business and, in the future, planned to construct a permanent residence on the front portion of the property.

In response to questions from the Board, Mr. Hooper stated that any complaints relative to noise have arisen from his hobby which was working on his boat. He stated accesses to the property on which he lived and property on which the business was located were not the same and he did not specify an automotive repair shop use on his building permit application.

Mr. Vince Wilson, an area resident, voiced opposition to, and asked the Board to deny, the request. He stated he felt the use reduced/impaired the value of the existing buildings or property in the surrounding area; that he had understood this type of use should have been located on the property frontage, not at the rear of the property; and that he had noted vehicles having problems entering/exiting the site.

Mr. David Stells, a resident of Rock Run Road, expressed concerns that granting a Special Exception to continue the use would adversely affect the health, safety and welfare of persons residing on the premises or in the neighborhood. He further stated he felt the use was an eyesore and inappropriate for a residential neighborhood, would adversely impact area property values and suggested the business be moved to a commercial area such as Hull Street Road or Midlothian Turnpike.

Mr. Conley Braswell, Jr., an adjacent property owner, expressed concerns that the use would have a negative impact on the watershed and environment in the area and asked that the request not be approved.

Mr. Ted A. Culliton, an adjacent property owner, stated he felt a commercial use in a residential community was inappropriate and expressed concerns that drainage from commercial vehicle products (battery acid/antifreeze) would contaminate area water supplies. He added he was also

disappointed that a trailer was a permitted use on the property.

Mr. Richard Minter, an area resident and developer in the County, stated the applicant was in violation of the Zoning Ordinance and allowing him to continue his business would send a message to others that it was alright to be in violation of the Ordinance and not adhere to County development regulations.

In response to questions from Mr. Hooper, staff indicated since the subject property was agriculturally zoned, he was permitted to retain the trailer on the site and he could use the property for agricultural purposes.

On motion of Mr. Perkinson, seconded by Mr. Caperton, the Board resolved to deny the request for a Special Exception to operate an automotive repair shop from the home for Case 00AN0118.

AYES: Messrs. Biggs, Perkinson, Caperton, Daniels and Moore.